

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Lara Valadez

v

Portfolio Recovery Associates, LLC

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Civil Action No.

5:19-cv-295

Complaint

Introduction

1. The Fair Debt Collection Practices Act was enacted to stop debt collectors from engaging in deceptive and misleading practices. Congress found that these practices contributed to job loss, personal bankruptcies, and marital instability.
2. The FDCPA, at 15 U.S.C. § 1692e, prohibits false and misleading representations by debt collectors, including, but not limited to: false representations regarding the character, amount, or legal status of a debt, 15 U.S.C. § 1692e(3); threat to take any action that cannot legally be taken or is not intended to be taken, 15 U.S.C. § 1692e(5); and any other false representation or deceptive means in collecting or attempting to collect a debt, 15 U.S.C. § 1692e(10).

3. The 5th Circuit in *Gonzalez v. Kay*, 577 F.3d 600, 603 (5th Cir. 2009) held that when deciding whether a debt collection letter violates the FDCPA, a court "must evaluate any potential deception in the letter under an unsophisticated or least sophisticated consumer standard."
4. Plaintiff brings this action for Defendant's violations of the FDCPA and seeks actual damages, statutory damages, attorney's fees, and costs.

Jurisdiction & Venue

5. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
6. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events or omissions giving rise to Plaintiff's claims occurred here.

Parties

7. Plaintiff, Lara Valadez, is a natural person who resides in and has resided in San Antonio, Bexar County, Texas at all times relevant to this action.
8. Defendant, Portfolio Recovery Associates, LLC, is a Delaware limited liability company whose primary business address is 130 Corporate Blvd, Norfolk, VA 23502-4952. PRA may be served with summons via its registered agent Corporation Service Company d/b/a CSC-Lawyers, Inc. at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

Facts

9. PRA regularly collects, and attempts to collect, defaulted debts which were incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of others using the U.S. Mail, telephone, and internet.

10. The principal purpose of PRA is the collection of such debts.

11. The Debt is an allegedly defaulted debt that PRA used for personal, family, and household purposes (the “Debt”).

12. PRA mailed a letter on or about April 17, 2018.

13. A true and correct copy of the letter is attached as Exhibit A except that it has been redacted in accordance with Fed. R. Civ. P. 5.2.

14. The letter gives Valadez various offers to resolve the debt.

15. Each offer has an asterisk by it which denotes that “[PRA] is not obligated to renew [the] offer.”

16. One of the offers is to pay the balance in full.

17. The option to pay the balance in full has an asterisk next to it.

18. PRA’s letter indicates that it is not obligated to accept payment of the balance in full.

19. PRA’s letter implies that it may refuse Valadez’s payment of the balance in full.

20. In October 2018, PRA filed suit against Valadez to collect the Debt.

21. A true and correct copy of the suit is attached as Exhibit B.

22. In the suit, PRA seeks payment of the Debt in the same amount stated in the letter.

23. PRA would have accepted payment of the balance in full at any time.

24. PRA never intended to reject its offer to accept payment of the balance in full.

25. PRA was obligated to keep the offer to accept payment in full open.

26. PRA's letter deprived Valadez of truthful, non-misleading information regarding the Debt.

Cause of Action – Fair Debt Collection Practices Act

27. PRA is a debt collector as defined by 15 U.S.C. § 1692a(6).

28. The Debt is a debt as defined by 15 U.S.C. § 1692a(5).

29. Valadez is a consumer as defined by 15 U.S.C. § 1692a(3).

30. The letter is a communication as defined by 15 U.S.C. § 1692a(2).

31. The letter violates the FDCPA in that:

- a. Makes use of false, deceptive, or misleading representations in connection with the collection of a debt in violation of 15 U.S.C. § 1692e;
- b. Makes a false representation of the character, amount, or legal status of a debt in violation of 15 U.S.C. § 1692e(2)(A);
- c. Threatens to take an action that cannot legally be taken or that is not intended to be taken in violation of 15 U.S.C. § 1692e(5); and

- d. Makes use of a false representation or deceptive means to collect or attempt to collect a debt in violation of 15 U.S.C. § 1692e(10).

Jury Demand

32. Plaintiff demands this case be tried before a jury.

Prayer for Relief

Plaintiff prays, that this Court enter judgment against Defendant and in favor of Plaintiff for:

- a. Actual damages per 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages per 15 U.S.C. § 1692k(a)(2); and
- c. Attorney's fees, costs, and litigation expenses per 15 U.S.C. § 1692k(a)(3).

Dated: March 21, 2019

Respectfully Submitted,

/s/William M. Clanton
William M. Clanton
Texas Bar No. 24049436

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